

AO 133 (Rev. 12/09) Bill of Costs

USDC SDNY

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DOC #:

DATE FILED: 3/28/17

## UNITED STATES DISTRICT COURT

for the

Southern District of New York

SERGEY LEONTIEV

v.

ALEXANDER VARSHAVSKY

Case No.: 16-cv-03595 (JSR)

## BILL OF COSTS

Judgment having been entered in the above entitled action on 03/02/2017 against Alexander Varshavsky,  
Date

the Clerk is requested to tax the following as costs:

Fees of the Clerk ..... \$ 400.00 ✓Fees for service of summons and subpoena ..... 0.00Fees for printed or electronically recorded transcripts necessarily obtained for use in the case ..... 819,885.85 ~~23,699.28~~ ✓Fees and disbursements for printing ..... 0.00Fees for witnesses (itemize on page two) ..... 0.00Fees for exemplification and the costs of making copies of any materials where the copies are  
necessarily obtained for use in the case. .... 0.00Docket fees under 28 U.S.C. 1923 ..... 0.00Costs as shown on Mandate of Court of Appeals ..... 0.00Compensation of court-appointed experts ..... 0.00Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828 ..... 8,690.00 ✓Other costs (please itemize) ..... 0.00TOTAL \$ 819,975.85 ✓

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

## Declaration

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the  
services for which fees have been charged were actually and necessarily performed. A copy of this bill has been served on all parties  
in the following manner:

Electronic service



First class mail, postage prepaid



Other:

s/ Attorney: Marshall R. KingName of Attorney: MARSHALL R. KINGFor: SERGEY LEONTIEV  
Name of Claiming PartyDate: 03/13/2017

## Taxation of Costs

Costs are taxed in the amount of \$19,975.85 and included in the judgment.RUBY J. KENTIK  
Clerk of CourtBy: [Signature]

Deputy Clerk

3/28/2017  
Date

Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. But if a timely motion for attorney's fees is made under Rule 54(d)(2), the court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Federal Rule of Appellate Procedure 4(a)(4) as a timely motion under Rule 59.

# **EXHIBIT C**

**From:** paygovadmin@mail.doc.twai.gov  
**Sent:** Friday, May 13, 2016 6:52 PM  
**To:** Barbera, Gino; Arias, Angel  
**Subject:** Pay.gov Payment Confirmation: NYSD CM ECF

Your payment has been submitted to Pay.gov and the details are below. If you have any questions or you wish to cancel this payment, please contact the NYSD ECFHelpdesk at (212) 805-0800.

Application Name: NYSD CM ECF  
Pay.gov Tracking ID: 25RJVGER  
Agency Tracking ID: 0208-12301084  
Transaction Type: Sale  
Transaction Date: May 13, 2016 6:52:17 PM

Account Holder Name: Gino Barbera  
Transaction Amount: \$400.00  
Card Type: AmericanExpress  
Card Number: \*\*\*\*\*1006

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# **EXHIBIT D**

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✓ ALLOWABLE  
 ✗ NOT ALLOWABLE

**Bill To:** Alison L. Wollin, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2842358  
**Invoice Date:** 12/29/2016  
**Balance Due:** \$2,258.20

<b>Case:</b>	Leontiev v. Vashavsky	<b>Matter #:</b>	56885-00001
<b>Job #:</b>	2494638   Job Date: 12/20/2016   Delivery: Normal		
<b>Billing Atty:</b>	Alison L. Wollin, Esq		
<b>Location:</b>	Roschier Asianajotoimisto Oy Keskuskatu 7 A   00100 Helsinki		
<b>Sched Atty:</b>	Alison L. Wollin, Esq   Gibson Dunn & Crutcher LLP		

Witness	Description	Amount
	Transcript Services	\$950.55 ✓
	Professional Attendance	\$95.00 ✗
	Exhibit Management	\$66.90 ✗
Kamo Avagumyan	Realtime Services	\$796.50 ✗
	Rough Draft	\$309.75 ✗
	Expenses	\$0.00
	Delivery and Handling	\$39.50 ✗
<b>Notes:</b>		<b>Invoice Total:</b> \$2,258.20 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$2,258.20
TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/att-services/services-information">http://www.veritext.com/services/att-services/services-information</a>		

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**Invoice #:** NY2842358  
**Job #:** 2494638  
**Invoice Date:** 12/29/2016  
**Balance:** \$2,258.20

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**Bill To:** Alison L. Wollin, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2840579  
**Invoice Date:** 12/28/2016  
**Balance Due:** \$3,793.65

<b>Case:</b> Leontiev v. Varshavsky	<b>Matter #:</b> 56885-00001
<b>Job #:</b> 2492612   <b>Job Date:</b> 12/14/2016   <b>Delivery:</b> Normal	
<b>Billing Atty:</b> Alison L. Wollin, Esq	
<b>Location:</b> Roschier Asianajotoimisto Oy Keskuskatu 7 A   00100 Helsinki	
<b>Sched Atty:</b> Alison L. Wollin, Esq   Gibson Dunn & Crutcher LLP	

Witness	Description	Amount
Karen Avagumyan	Transcript Services	\$554.00 ✓
	Professional Attendance	\$95.00 X
	Exhibit Management	\$78.00 X
	Realtime Services	\$450.00 X
	Rough Draft	\$175.00 X
	Expenses	\$2,400.00 X
	Delivery and Handling	\$41.65 X
<b>Notes:</b> Travel and Non-Sitting Days		
		<b>Invoice Total:</b> \$3,793.65
		<b>Payment:</b> \$0.00
		<b>Credit:</b> \$0.00
		<b>Interest:</b> \$0.00
		<b>Balance Due:</b> \$3,793.65
<b>TERMS:</b> Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

*\$ 554.00  
allowance*

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**Invoice #:** NY2840579  
**Job #:** 2492612  
**Invoice Date:** 12/28/2016  
**Balance:** \$3,793.65



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**Bill To:** Robert L. Weigel, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2863391  
**Invoice Date:** 1/25/2017  
**Balance Due:** \$2,217.94

**Case:** Leontiev v. Vashavsky  
**Job #:** 2512946 | **Job Date:** 1/12/2017 | **Delivery:** Normal  
**Billing Atty:** Robert L. Weigel, Esq  
**Location:** Debevoise & Plimpton  
 919 Third Avenue | Room 35F | New York, NY 10022  
**Sched Atty:** | Debevoise & Plimpton LLP

Witness	Description	Amount
Vadim Kolotnikov CONF	Transcript Services	\$971.75
	Exhibit Management	\$200.40
	Realtime Services	\$444.85
	Rough Draft	\$358.75
	Delivery and Handling	\$45.89
Vadim Kolotnikov AEO	Transcript Services	\$123.50
	Realtime Services	\$40.30
	Rough Draft	\$32.50
<b>Notes:</b>		<b>Invoice Total:</b> \$2,217.94 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$2,217.94
TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

\$1,095.25  
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**Invoice #:** NY2863391  
**Job #:** 2512946  
**Invoice Date:** 1/25/2017  
**Balance:** \$2,217.94



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**Bill To:** Alison L. Wollin, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2860002  
**Invoice Date:** 1/20/2017  
**Balance Due:** \$1,070.60

**Case:** Leontiev v. Varshavsky  
**Job #:** 2512944 | **Job Date:** 1/11/2017 | **Delivery:** Normal  
**Billing Atty:** Alison L. Wollin, Esq  
**Location:** Debevoise & Plimpton  
 919 Third Avenue | 35th | New York, NY 10022  
**Sched Atty:** | Debevoise & Plimpton LLP

Witness	Description	Amount
Charles W. Laurence	Transcript Services	\$526.50
	Exhibit Management	\$94.60
	Realtime Services	\$232.50
	Rough Draft	\$187.50
	Delivery and Handling	\$29.50
<b>Notes:</b>		<b>Invoice Total:</b> \$1,070.60 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$1,070.60
TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

8526.50  
 ohlowh310

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**Invoice #:** NY2860002  
**Job #:** 2512944  
**Invoice Date:** 1/20/2017  
**Balance:** \$1,070.60

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**Bill To:** Robert L. Weigel, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2851486  
**Invoice Date:** 1/10/2017  
**Balance Due:** \$2,935.30

**Case:** Leontiev v. Varshavsky  
**Job #:** 2511857 | **Job Date:** 1/3/2017 | **Delivery:** Normal  
**Billing Atty:** Robert L. Weigel, Esq  
**Location:** Debevoise & Plimpton  
 919 3rd Avenue | New York, NY 10022  
**Sched Atty:** | Debevoise & Plimpton LLP

Witness	Description	Amount
S Leontiev - AEO	Transcript Services	\$133.25 ✓
	Realtime Services	\$44.95 X
	Rough Draft	\$36.25 X
Sergey Leontiev	Transcript Services	\$1,361.75 ✓
	Exhibit Management	\$190.00 X
	Realtime Services	\$630.85 X
	Rough Draft	\$508.75 X
	Delivery and Handling	\$29.50 X
<b>Notes:</b>		<b>Invoice Total:</b> \$2,935.30 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$2,935.30
<b>TERMS:</b> Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

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**Invoice #:** NY2851486  
**Job #:** 2511857  
**Invoice Date:** 1/10/2017  
**Balance:** \$2,935.30

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**Bill To:** Marshall King, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2862673  
**Invoice Date:** 1/25/2017  
**Balance Due:** \$2,068.64

**Case:** Leontiev v. Varshavsky  
**Job #:** 2521235 | Job Date: 1/17/2017 | Delivery: Expedited  
**Billing Atty:** Marshall King, Esq  
**Location:** Gibson Dunn & Crutcher LLP  
 200 Park Avenue | 47th Floor | New York, NY 10166  
**Sched Atty:** Alison Chapin, Esq | Gibson Dunn & Crutcher LLP

**Matter #:** 56885-00001

Witness	Description	Amount
Irina Monakhova	Transcript Services	\$721.50
	Transcript - Expedited Fee	\$231.00
	Professional Attendance	\$0.00
	Exhibit Management	\$150.75
	Realtime Services	\$651.00
	Rough Draft	\$262.50
	Expenses	\$0.00
	Delivery and Handling	\$51.89
<b>Notes:</b>		<b>Invoice Total:</b> \$2,068.64 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$2,068.64
TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

8/721.50  
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**Invoice #:** NY2862673  
**Job #:** 2521235  
**Invoice Date:** 1/25/2017  
**Balance:** \$2,068.64

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**Bill To:** Alison L. Wollin, Esq  
 Gibson Dunn  
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**Invoice #:** NY2842221  
**Invoice Date:** 12/29/2016  
**Balance Due:** \$1,953.30

<b>Case:</b> Leontiev v. Vashavsky	<b>Matter #:</b> 56885-00001
<b>Job #:</b> 2492613   <b>Job Date:</b> 12/16/2016   <b>Delivery:</b> Normal	
<b>Billing Atty:</b> Alison L. Wollin, Esq	
<b>Location:</b> Roschler Asianajotoimisto Oy Keskuskatu 7 A   00100 Helsinki	
<b>Sched Atty:</b> Alison L. Wollin, Esq   Gibson Dunn & Crutcher LLP	

Witness	Description	Amount
Andrei Pavlovich	Transcript Services	\$806.35
	Professional Attendance	\$95.00
	Exhibit Management	\$81.20
	Realtime Services	\$670.50
	Rough Draft	\$260.75
	Expenses	\$0.00
	Delivery and Handling	\$39.50

**Notes:**

<b>Invoice Total:</b>	\$1,953.30
<b>Payment:</b>	\$0.00
<b>Credit:</b>	\$0.00
<b>Interest:</b>	\$0.00
<b>Balance Due:</b>	\$1,953.30

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**Job #:** 2492613  
**Invoice Date:** 12/29/2016  
**Balance:** \$1,953.30



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**Bill To:** Alison L. Wollin, Esq  
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**Invoice #:** NY2857147  
**Invoice Date:** 1/18/2017  
**Balance Due:** \$3,895.30

<b>Case:</b> Leontiev v. Varshavsky	<b>Matter #:</b> 56885-00001
<b>Job #:</b> 2494641   <b>Job Date:</b> 1/9/2017   <b>Delivery:</b> Normal	
<b>Billing Atty:</b> Alison L. Wollin, Esq	
<b>Location:</b> Roschier Asianajotoimisto Oy Keskuskatu 7 A   00100 Helsinki	
<b>Sched Atty:</b> Alison L. Wollin, Esq   Gibson Dunn & Crutcher LLP	

Witness	Description	Amount
Vitaliy Popov	Transcript Services	\$1,105.05
	Professional Attendance	\$95.00
	Exhibit Management	\$162.00
	Realtime Services	\$931.50
	Rough Draft	\$362.25
	Expenses	\$1,200.00
	Delivery and Handling	\$39.50
<b>Notes:</b>		<b>Invoice Total:</b> \$3,895.30 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$3,895.30
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**Job #:** 2494641  
**Invoice Date:** 1/18/2017  
**Balance:** \$3,895.30

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**Invoice #:** NY2842501  
**Invoice Date:** 12/29/2016  
**Balance Due:** \$2,395.45

<b>Case:</b> Leontiev v. Varshavsky	<b>Matter #:</b> 56885-00001
<b>Job #:</b> 2492615   <b>Job Date:</b> 12/19/2016   <b>Delivery:</b> Normal	
<b>Billing Atty:</b> Alison L. Wollin, Esq	
<b>Location:</b> Roschier Asianajotoimisto Oy Keskuskatu 7 A   00100 Helsinki	
<b>Sched Atty:</b> Alison L. Wollin, Esq   Gibson Dunn & Crutcher LLP	

Witness	Description	Amount
Yulia Semenova	Transcript Services	\$960.85
	Professional Attendance	\$95.00
	Exhibit Management	\$181.35
	Realtime Services	\$805.50
	Rough Draft	\$313.25
	Expenses	\$0.00
	Delivery and Handling	\$39.50

**Notes:**

<b>Invoice Total:</b>	\$2,395.45
<b>Payment:</b>	\$0.00
<b>Credit:</b>	\$0.00
<b>Interest:</b>	\$0.00
<b>Balance Due:</b>	\$2,395.45

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**Invoice #:** NY2842501  
**Job #:** 2492615  
**Invoice Date:** 12/29/2016  
**Balance:** \$2,395.45

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**Bill To:** Marshall King, Esq  
Gibson Dunn  
200 Park Avenue  
47th Floor  
New York, NY, 10166

**Invoice #:** NY2857240  
**Invoice Date:** 1/18/2017  
**Balance Due:** \$1,676.90

**Case:** Leontiev v. Varshavsky  
**Job #:** 2512718 | **Job Date:** 1/11/2017 | **Delivery:** Normal  
**Billing Atty:** Marshall King, Esq  
**Location:** Hotel Kämp  
Pohjoisesplanadi 29 | Paavo Nurmi Room 3 on the 2nd floor |  
00100 Helsinki  
**Sched Atty:** | Debevoise & Plimpton LLP

Witness	Description	Amount
Alexander Shcheglyayev	Transcript Services	\$693.05
	Professional Attendance	\$95.00
	Exhibit Management	\$55.60
	Realtime Services	\$571.50
	Rough Draft	\$222.25
	Expenses	\$0.00
	Delivery and Handling	\$39.50
<b>Notes:</b>		<b>Invoice Total:</b> \$1,676.90 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$1,676.90
TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

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**Invoice #:** NY2857240  
**Job #:** 2512718  
**Invoice Date:** 1/18/2017  
**Balance:** \$1,676.90



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**Bill To:** Robert L. Weigel, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2856167  
**Invoice Date:** 1/17/2017  
**Balance Due:** \$2,402.90

<b>Case:</b>	Leontiev v. Varshavsky	<b>Matter #:</b>	56885-00001
<b>Job #:</b>	2505668   Job Date: 1/5/2017   Delivery: Normal		
<b>Billing Atty:</b>	Robert L. Weigel, Esq		
<b>Location:</b>	Gibson Dunn & Crutcher LLP 200 Park Avenue   47th Floor   New York, NY 10166		
<b>Sched Atty:</b>	Alison L. Wollin, Esq   Gibson Dunn & Crutcher LLP		

Witness	Description	Amount
Alexander Varshavsky	Transcript Services	\$932.75
	Professional Attendance	\$0.00
	Exhibit Management	\$244.40
	Realtime Services	\$852.50
	Rough Draft	\$343.75
	Expenses	\$0.00
	Delivery and Handling	\$29.50
<b>Notes:</b>		<b>Invoice Total:</b> \$2,402.90 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$2,402.90

**TERMS:** Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <http://www.veritext.com/services/all-services/services-information>

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**Job #:** 2505668  
**Invoice Date:** 1/17/2017  
**Balance:** \$2,402.90

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**Bill To:** Mary Beth Maloney, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2852549  
**Invoice Date:** 1/11/2017  
**Balance Due:** \$1,100.70

**Case:** Leontiev v. Varshavsky  
**Job #:** 2512940 | Job Date: 1/6/2017 | Delivery: Normal  
**Billing Atty:** Mary Beth Maloney, Esq  
**Location:** Debevoise & Plimpton  
 919 Third Avenue | 35th | New York, NY 10022  
**Sched Atty:** | Debevoise & Plimpton LLP

Witness	Description	Amount
Vadim Voronin	Transcript Services	\$520.00
	Exhibit Management	\$138.80
	Realtime Services	\$229.40
	Rough Draft	\$185.00
	Delivery and Handling	\$29.50
<b>Notes:</b>		<b>Invoice Total:</b> \$1,100.70 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$1,100.70
TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

\$ 0

*Agree with objections. Do not  
 see attached to motion for  
 summary judgment.*

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**Invoice #:** NY2852549  
**Job #:** 2512940  
**Invoice Date:** 1/11/2017  
**Balance:** \$1,100.70

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**Bill To:** Robert L. Weigel, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2834260  
**Invoice Date:** 12/20/2016  
**Balance Due:** \$0.00

**Case:** Leontiev v. Varshavsky  
**Job #:** 2502724 | Job Date: 12/16/2016 | Delivery: Normal  
**Billing Atty:** Robert L. Weigel, Esq  
**Location:** Debevoise & Plimpton  
 919 3rd Avenue | New York, NY 10022  
**Sched Atty:** | Debevoise & Plimpton LLP

Witness	Description	Amount
Alexander Zheleznyak	Transcript - Split Between Parties/Your Share	\$757.25
	Exhibit Management	\$144.00
	Realtime Services	\$361.15
	Rough Draft	\$291.25
	Transcript Services	\$39.00
	Delivery and Handling	\$29.50
<b>Notes:</b>		<b>Invoice Total:</b> \$1,622.15 <b>Payment:</b> <del>(\$1,622.15)</del> <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$0.00
TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

*\$757.25*  
*Alloa*

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**Invoice #:** NY2834260  
**Job #:** 2502724  
**Invoice Date:** 12/20/2016  
**Balance:** \$0.00

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**Bill To:** Alison L. Wollin, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2857242  
**Invoice Date:** 1/18/2017  
**Balance Due:** \$2,528.10

**Case:** Leontiev v. Varshavsky  
**Job #:** 2512943 | **Job Date:** 1/9/2017 | **Delivery:** Normal  
**Billing Atty:** Alison L. Wollin, Esq  
**Location:** Debevoise & Plimpton  
 919 Third Avenue | 35th | New York, NY 10022  
**Sched Atty:** | Debevoise & Plimpton LLP

Witness	Description	Amount
Irina Zubiy AEO	Transcript Services	\$68.25 ✓
	Realtime Services	\$13.95 ✓
	Rough Draft	\$11.25 ✓
Irina Zubiy Conf	Transcript Services	\$1,072.50 ✓
	Exhibit Management	\$442.25 ✓
	Realtime Services	\$492.90 ✓
	Rough Draft	\$397.50 ✓
	Delivery and Handling	\$29.50 ✓
<b>Notes:</b>		<b>Invoice Total:</b> \$2,528.10 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$2,528.10
TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

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**Invoice #:** NY2857242  
**Job #:** 2512943  
**Invoice Date:** 1/18/2017  
**Balance:** \$2,528.10

# **EXHIBIT E**

# **EXHIBIT E**



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**Bill To:** Alison L. Wollin, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2842748  
**Invoice Date:** 12/29/2016  
**Balance Due:** \$1,350.00

<b>Case:</b>	Leontiev v. Vashavsky	<b>Matter #:</b>	56885-00001
<b>Job #:</b>	2494638   Job Date: 12/20/2016   Delivery: Normal		
<b>Billing Atty:</b>	Alison L. Wollin, Esq		
<b>Location:</b>	Roschier Asianajotoimisto Oy Keskuskatu 7 A   00100 Helsinki		
<b>Sched Atty:</b>	Alison L. Wollin, Esq   Gibson Dunn & Crutcher LLP		

Witness	Description	Amount
Kamo Avagumyan	Translation & Interpretation	\$1,350.00
<b>Notes:</b>		<b>Invoice Total:</b> \$1,350.00
		<b>Payment:</b> \$0.00
		<b>Credit:</b> \$0.00
		<b>Interest:</b> \$0.00
		<b>Balance Due:</b> \$1,350.00
<b>TERMS:</b> Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

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**Invoice #:** NY2842748  
**Job #:** 2494638  
**Invoice Date:** 12/29/2016  
**Balance:** \$1,350.00



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**Bill To:** Alison L. Wollin, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2842735  
**Invoice Date:** 12/29/2016  
**Balance Due:** \$1,350.00

<b>Case:</b>	Leontiev v. Varshavsky	<b>Matter #:</b>	56885-00001
<b>Job #:</b>	2492612   Job Date: 12/14/2016   Delivery: Normal		
<b>Billing Atty:</b>	Alison L. Wollin, Esq		
<b>Location:</b>	Roschier Asianajotoimisto Oy Keskuskatu 7 A   00100 Helsinki		
<b>Sched Atty:</b>	Alison L. Wollin, Esq   Gibson Dunn & Crutcher LLP		

Witness	Description	Amount
Karen Avagumyan	Translation & Interpretation	\$1,350.00
<b>Notes:</b>		<b>Invoice Total:</b> \$1,350.00
		<b>Payment:</b> \$0.00
		<b>Credit:</b> \$0.00
		<b>Interest:</b> \$0.00
		<b>Balance Due:</b> \$1,350.00
<b>TERMS:</b> Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/ali-services/services-information">http://www.veritext.com/services/ali-services/services-information</a>		

*Alison Wollin*

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**Invoice #:** NY2842735  
**Job #:** 2492612  
**Invoice Date:** 12/29/2016  
**Balance:** \$1,350.00

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**Bill To:** Marshall King, Esq  
Gibson Dunn  
200 Park Avenue  
47th Floor  
New York, NY, 10166

**Invoice #:** NY2862892  
**Invoice Date:** 1/25/2017  
**Balance Due:** \$1,600.00

<b>Case:</b>	Leontiev v. Varshavsky	<b>Matter #:</b>	56885-00001
<b>Job #:</b>	2521235   Job Date: 1/17/2017   Delivery: Normal		
<b>Billing Atty:</b>	Marshall King, Esq		
<b>Location:</b>	Gibson Dunn & Crutcher LLP 200 Park Avenue   47th Floor   New York, NY 10166		
<b>Sched Atty:</b>	Alison Chapin, Esq   Gibson Dunn & Crutcher LLP		

Witness	Description	Amount
Irina Monakhova	Translation & Interpretation	\$1,170.00
	Transcript Services	\$430.00
<b>Notes:</b>		<b>Invoice Total:</b> \$1,600.00
		<b>Payment:</b> \$0.00
		<b>Credit:</b> \$0.00
		<b>Interest:</b> \$0.00
		<b>Balance Due:</b> \$1,600.00
<b>TERMS:</b> Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

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**Invoice #:** NY2862892  
**Job #:** 2521235  
**Invoice Date:** 1/25/2017  
**Balance:** \$1,600.00

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**Bill To:** Alison L. Wollin, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2842618  
**Invoice Date:** 12/29/2016  
**Balance Due:** \$1,350.00

<b>Case:</b>	Leontiev v. Vashavsky	<b>Matter #:</b>	56885-00001
<b>Job #:</b>	2492613   Job Date: 12/16/2016   Delivery: Normal		
<b>Billing Atty:</b>	Allison L. Wollin, Esq		
<b>Location:</b>	Roschier Asianajotoimisto Oy Keskuskatu 7 A   00100 Helsinki		
<b>Sched Atty:</b>	Allison L. Wollin, Esq   Gibson Dunn & Crutcher LLP		

Witness	Description	Amount
Andrei Pavlovich	Translation & Interpretation	\$1,350.00
<b>Notes:</b>		<b>Invoice Total:</b> \$1,350.00 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$1,350.00
TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

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**Invoice #:** NY2842618  
**Job #:** 2492613  
**Invoice Date:** 12/29/2016  
**Balance:** \$1,350.00

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 Gibson Dunn  
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 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2857910  
**Invoice Date:** 1/18/2017  
**Balance Due:** \$1,350.00

<b>Case:</b> Leontiev v. Varshavsky	<b>Matter #:</b> 56885-00001
<b>Job #:</b> 2494641   Job Date: 1/9/2017   Delivery: Normal	
<b>Billing Atty:</b> Alison L. Wollin, Esq	
<b>Location:</b> Roschier Asianajotoimisto Oy Keskuskatu 7 A   00100 Helsinki	
<b>Sched Atty:</b> Alison L. Wollin, Esq   Gibson Dunn & Crutcher LLP	

Witness	Description	Amount
Vitaliy Popov	Translation & Interpretation	\$1,350.00
<b>Notes:</b>		<b>Invoice Total:</b> \$1,350.00
		<b>Payment:</b> \$0.00
		<b>Credit:</b> \$0.00
		<b>Interest:</b> \$0.00
		<b>Balance Due:</b> \$1,350.00
<b>TERMS:</b> Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

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**Invoice #:** NY2857910  
**Job #:** 2494641  
**Invoice Date:** 1/18/2017  
**Balance:** \$1,350.00

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**New York Region**

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**Bill To:** Alison L. Wollin, Esq  
 Gibson Dunn  
 200 Park Avenue  
 47th Floor  
 New York, NY, 10166

**Invoice #:** NY2842733  
**Invoice Date:** 12/29/2016  
**Balance Due:** \$1,690.00

<b>Case:</b>	Leontiev v. Varshavsky	<b>Matter #:</b>	56885-00001
<b>Job #:</b>	2492615   Job Date: 12/19/2016   Delivery: Normal		
<b>Billing Atty:</b>	Alison L. Wollin, Esq		
<b>Location:</b>	Roschier Asianajotoimisto Oy Keskuskatu 7 A   00100 Helsinki		
<b>Sched Atty:</b>	Alison L. Wollin, Esq   Gibson Dunn & Crutcher LLP		

Witness	Description	Amount
Yulia Semenova	Translation & Interpretation	\$1,350.00
	Transcript Services	\$340.00
<b>Notes:</b>		<b>Invoice Total:</b> \$1,690.00 <b>Payment:</b> \$0.00 <b>Credit:</b> \$0.00 <b>Interest:</b> \$0.00 <b>Balance Due:</b> \$1,690.00
<b>TERMS:</b> Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <a href="http://www.veritext.com/services/all-services/services-information">http://www.veritext.com/services/all-services/services-information</a>		

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**Invoice #:** NY2842733  
**Job #:** 2492615  
**Invoice Date:** 12/29/2016  
**Balance:** \$1,690.00





4. On March 1, 2017, the Court granted summary judgment in this matter in favor of Plaintiff Sergey Leontiev and issued a declaration that “Sergey Leontiev owes no debt or obligation to defendant Alexander Varshavsky.” Accordingly, Plaintiff is the prevailing party



and is entitled to recover costs pursuant to Fed. R. Civ. P. 54(d) and Local Rule 54.1. A true and correct copy of the Final Judgment (Dkt. No. 70) is attached hereto as Exhibit A.

5. Plaintiff incurred taxable costs in this matter of \$32,789.28, as set forth in Sergey Leontiev's March 13, 2017 Bill of Costs, attached hereto as Exhibit B. These costs are correctly stated, are allowable by law, and were necessarily incurred as stated herein. These costs consist of the following components.

6. Plaintiff incurred a cost of \$400.00 for the court filing fee incurred to initiate the above-captioned action. A true and correct copy of the email confirming this payment is attached hereto as Exhibit C.

7. Plaintiff incurred costs of \$23,699.28 for deposition transcripts for the following witnesses: Kamo Avagumyan, Karen Avagumyan, Vadim Kolotnikov, Charles Laurence, Sergey Leontiev, Irina Monakhova, Andrei Pavlovich, Vitaliy Popov, Yulia Semenova, Alexander Shcheglyayev, Alexander Varshavsky, Vadim Voronin, Alexander Zheleznyak, and Irina Zubiy. These costs are recoverable under 28 U.S.C. § 1920 and Local Rule 54.1. True and correct copies of the invoices for these deposition transcripts are attached hereto as Exhibit D.<sup>1</sup>

8. Plaintiff incurred costs of \$8,690.00 for interpretation services at depositions for the following witnesses: Kamo Avagumyan, Karen Avagumyan, Irina Monakhova, Andrei Pavlovich, Vitaliy Popov, and Yulia Semenova. *See* 28 U.S.C. § 1920(6) (allowing recovery of "compensation of interpreters"); Local Civ. R. 54.1(c)(4) (same). True and correct copies of the invoices for these interpretation services are attached hereto as Exhibit E.

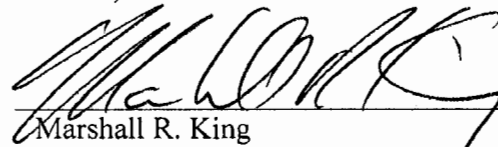
9. WHEREFORE, Plaintiff respectfully requests the Clerk issue an order granting Plaintiff costs in the amount of \$32,789.28.

---

<sup>1</sup> The "Realtime Services" expenses reflected in the invoices included in Exhibit D are excluded from Plaintiff's request for costs.

Executed on this 13th day of March 2017 at New York, New York.

By:

A handwritten signature in black ink, appearing to read 'Marshall R. King', is written over a horizontal line.

Marshall R. King  
GIBSON, DUNN & CRUTCHER LLP  
200 Park Avenue  
New York, NY 10166-0193  
Telephone: 212.351.4000  
Facsimile: 212.351.4035

*Attorney for Plaintiff Sergey Leontiev*

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
SERGEY LEONTIEV,

Plaintiff,

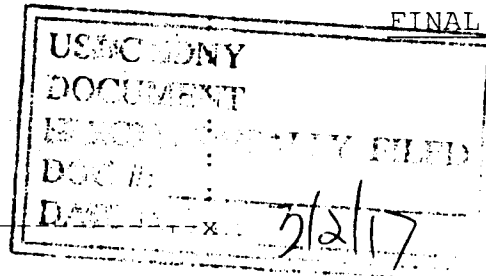
-v-

ALEXANDER VARSHAVSKY,

Defendant.  
-----x

16 Civ. 3595 (JSR)

FINAL JUDGMENT



JED S. RAKOFF, U.S.D.J.

Before the Court is plaintiff Sergey Leontiev's motion for summary judgment on his first, and only remaining, cause of action. Upon consent of the parties, see transcript dated March 1, 2017, the Court hereby grants summary judgment in favor of the plaintiff and declares that Sergey Leontiev owes no debt or obligation to defendant Alexander Varshavsky in the defendant's personal capacity with respect to the loans and other debt instruments described in paragraph 32 of the complaint in this case, see ECF No. 1.

The Clerk of the Court is directed to close the motion at docket entry number 49 and to close this case.

SO ORDERED.

Dated: New York, NY  
March 1, 2017

JED S. RAKOFF, U.S.D.J.

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
SERGEY LEONTIEV,	:	
	:	
Plaintiff,	:	
	:	Case No. 1:16-cv-03595 (JSR)
- v. -	:	
	:	
ALEXANDER VARSHAVSKY,	:	
	:	
Defendant.	:	
-----	X	

**DEFENDANT'S MEMORANDUM TO THE CLERK OF THE COURT  
IN OPPOSITION TO PLAINTIFF'S APPLICATION FOR COSTS**

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*Counsel to Defendant Alexander Varshavsky*

Dated: March 27, 2017

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TO THE CLERK OF COURT:

Defendant Alexander Varshavsky respectfully requests that Plaintiff Sergey Leontiev's Application for Costs be denied in full. Plaintiff's suit failed to achieve any meaningful relief. His sole claim for damages was dismissed on the pleadings. His only other claim, for declaratory relief, was entered "on consent" at summary judgment after it was substantially narrowed from the broad declaration sought in Plaintiff's complaint. Defendant consented to that declaration because it effected absolutely no change to the status quo. Although technically entered as a grant of Plaintiff's motion for summary judgment, it was, at most, a Pyrrhic victory that does not qualify for "prevailing party" status or warrant an award of costs.

Certain specific elements of Plaintiff's Application for Costs also should be disallowed because recovery of those elements is not permitted in this District.

### **BACKGROUND**

Plaintiff brought this suit and alleged two claims. In one claim, Plaintiff sought \$25 million in damages for "intentional infliction of emotional distress" arising from Defendant's efforts to obtain repayment from Plaintiff of monies lent by non-parties to entities controlled and looted by Plaintiff. *See* Compl. ¶¶ 46–52, Prayer for Relief (Dkt. No. 1). Judge Rakoff dismissed this count on the pleadings, holding that it did not "remotely meet" the legal standard for the claim. *See* Sept. 1, 2016 Mem. Order, at 11 (Dkt. No. 31).

In the other claim, Plaintiff sought a declaratory judgment that he was not personally liable under any legal theory for the monies loaned by non-parties and an injunction preventing Defendant and "anyone acting in concert or participation with"

Defendant from seeking repayment from Plaintiff. *See* Compl. ¶¶ 41–45, Prayer for Relief (Dkt. No. 1). The claim was a transparent attempt to enjoin the non-party lenders and litigate their rights, as Defendant had never contended that the monies were owed to him personally. Defendant’s counsel even offered Plaintiff’s counsel, early in the case, to resolve the second claim with a declaration that Plaintiff did not owe Defendant on the loans in their personal capacities. *See* Decl. Hecker Opp. Appl. Costs (“Hecker Decl.”), Ex. A (Mar. 1, 2017 Oral Arg. Tr. at 6). Plaintiff’s counsel refused and further declined to identify whom Plaintiff was attempting to bind with his requested declaration. *See id.* Yet later, in open court on Plaintiff’s unsuccessful motion for judgment on the pleadings, his counsel expressly narrowed the requested relief to “a declaration that [Plaintiff] owes nothing to [Defendant] personally.” Sept. 21, 2016 Oral Arg. Tr. at 5–6, 12 (Dkt. No. 42).

In moving for summary judgment on his second claim, Plaintiff nevertheless reverted to the broader declaratory relief sought in his Complaint. *See* Pl.’s Mem. Supp. Mot. Summ. J. at 21, 25 (Dkt. No. 51). In response, Defendant explained that he had never claimed that the loaned funds were owed to him personally and that he would agree to a declaration from the Court to that effect. *See* Def.’s Mem. Opp. Mot. Summ. J. at 2, 12, 25 (Dkt. No. 56). Defendant urged the Court to enter that narrow declaration rather than entertaining Plaintiff’s attempt to adjudicate the claims of the non-party lenders, who were not before the Court. *See id.* at 1, 12–14. In case the Court nonetheless did reach that issue, Defendant further explained why summary judgment on Plaintiff’s liability on the loans generally should be denied. *See id.* at 14–25. In his reply, Plaintiff

continued to press argument on his liability on the loans generally. *See* Pl.’s Reply Mem. Supp. Mot. Summ. J. at 4–10 (Dkt. No. 65).

Oral argument on Plaintiff’s motion for summary judgment did not last long. At the start, Judge Rakoff noted that Plaintiff had withdrawn “in open court” his request that declaratory relief extend to “anyone acting in concert or participation with” Defendant, and that Defendant consented to entry of a declaration that Plaintiff did not owe a debt to Defendant personally. *See* Hecker Decl., Ex. A (Mar. 1, 2017 Oral Arg. Tr. at 2). Given that this was “all that remains of the relief sought by the plaintiff,” Judge Rakoff asked Plaintiff’s counsel, “why are we here?” *Id.* Plaintiff’s counsel nonetheless attempted to argue that the Court should declare Plaintiff not liable to anyone for the monies loaned by non-parties, before Judge Rakoff advised that this was “not a good use” of the Court’s time. *Id.* at 5. The Court then entered a final judgment on consent of the parties, declaring solely that Plaintiff “owes no debt or obligation” to Defendant “in the defendant’s personal capacity” with respect to the loans at issue. Final J. (Dkt. No. 70).

## ARGUMENT

### **I. No Costs Should be Awarded**

Plaintiff obtained no meaningful relief from this suit. His first claim, for emotional distress, was dismissed on the pleadings. And his second claim, for declaratory relief, was narrowed and entered on consent, and it declared what had never been in dispute and had, in fact, been offered to Plaintiff’s counsel early in the litigation.

The Federal Rules permit an award of certain costs to the “prevailing party,” *see* Fed. R. Civ. P. 54(d), but in no meaningful sense did Plaintiff prevail in this litigation. Although the Supreme Court has given the term “prevailing party” a “generous

formulation,” *Texas State Teachers Ass’n v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 792 (1989), to qualify a plaintiff must still obtain a “judicially sanctioned change in the legal relationship of the parties.” *Dattner v. Conagra Foods, Inc.*, 458 F.3d 98, 101 (2d Cir. 2006) (applying standard to costs under Rule 54). No such change in the legal relationship of the parties was effected here.

The Supreme Court has made clear that a grant of declaratory relief that makes no change to the status quo does not support prevailing party status. As an example of such insufficient relief, the Supreme Court has noted the invalidation of a requirement for school approval for meetings held during non-school hours, where there was no evidence that permission for such a meeting was ever refused. *See Garland*, 489 U.S. at 792. This would not render the plaintiffs “prevailing parties” because, “[d]espite winning a declaratory judgment, the plaintiffs could not alter the defendant[’s] ... behavior toward them for their benefit.” *Farrar v. Hobby*, 506 U.S. 103, 113 (1992) (discussing *Garland’s* example). Here, similarly, there is no evidence that Defendant ever asserted that he was personally owed the loaned monies. Defendant can continue to pursue repayment of the loaned monies on behalf of the creditors in a representational capacity rather than personally, which is all he ever did.

Even if Plaintiff could fairly be said to have “prevailed” on his second claim, the Court has discretion to nonetheless limit or deny costs. *Crawford Fitting Co. v. J.T. Gibbons, Inc.*, 482 U.S. 437, 442 (1987) (stating that Rule 54(d) “grants a federal court discretion to refuse to tax costs in favor of the prevailing party”). Given Plaintiff’s complete loss on his first claim and the narrowing of his second, the litigation’s outcome was, at most, mixed, and the Court should, in its discretion, order each party to bear their



own costs. *E.g.*, *Shervington v. Vill. of Piermont*, No. 09 CIV. 4273, 2012 WL 2574744, at \*3 (S.D.N.Y. July 3, 2012) (denying costs where, among other things, party's victory at summary judgment "was only a partial one"); *JA Apparel Corp. v. Abboud*, No. 07 CIV. 7787 (THK), 2010 WL 1488009, at \*4 (S.D.N.Y. Apr. 13, 2010) (ordering each party to bear its costs where the judgment was "mixed," with each party prevailing on certain issues, and collecting cases affirming decisions of other district courts doing the same). Plaintiff should not be permitted to bring suit seeking \$25 million in damages and a broad declaration, obtain no monetary relief whatsoever and a narrow declaration on an issue not in dispute and yet recover costs (which were incurred predominantly as a result of the overreaching declaratory relief Plaintiff sought but failed to attain). In these circumstances, no award of costs is warranted. *Cf. Farrar*, 506 U.S. at 120 (O'Connor, J., concurring) (noting that courts routinely deny costs to a "Pyrrhic victor").

## **II. Certain of Defendants' Costs Are Not Taxable**

Even if the Clerk allows taxation of costs, Plaintiffs' request for the costs of depositions (\$23,699.28) and interpreters (\$8,690) should be disallowed. And even if the depositions at issue are deemed taxable, \$8,942.18 of the amount sought should be disallowed because it represents nonessential deposition expenses that are not taxable.

### **A. Deposition Costs**

#### **1. Plaintiff Cannot Tax Costs For Depositions That Were Not "Used by the Court"**

In the absence of a trial—and there was none here—this Court's Rules permit recovery of the costs of an original deposition transcript, plus one copy, only if the deposition was "used by the Court in ruling on a motion for summary judgment or other dispositive substantive motion." Local Civ. R. 54.1(c)(2). Although a court can



determine that it “used” any deposition transcript filed in support of a summary judgment motion when ruling on that motion, it is not obligated to do so; the court has broad discretion to “assess the extent to which it ‘used’” a deposition transcript. *Whitfield v. Scully*, 241 F.3d 264, 271–72 (2d Cir. 2001); *cf. Harris v. Twentieth Century-Fox Film Corp.*, 139 F.2d 571, 572–73 (2d Cir. 1943) (affirming district court’s exercise of discretion in refusing to tax certain depositions not cited in its opinion granting summary judgment). And whereas some courts in this District have, in their discretion, gone beyond the Local Rules’ limitation and permitted taxation of depositions not used at trial or on a dispositive motion if they were “reasonably necessary to the litigation at the time they were taken,” *Farberware Licensing Co. LLC v. Meyer Marketing Co., Ltd.*, No. 09 Civ. 2570 (HB), 2009 WL 5173787, at \*5 (S.D.N.Y. Dec. 30, 2009) (citing 28 U.S.C. § 1920(2), which allows taxation of transcripts that were “necessarily obtained for use in the case”), Plaintiff states no reason that the plain application of the Court’s Rules should not govern in this case.

Here, none of the deposition transcripts claimed by Plaintiff were “used” by the Court in ruling on Plaintiff’s motion for summary judgment, as that motion was resolved on consent, at oral argument, and without any substantive discussion. Indeed, the Court affirmatively stopped Plaintiff’s counsel from arguing Plaintiff’s liability on the loans generally at oral argument on the motion. *See Hecker Decl.*, Ex. A (Mar. 1, 2017 Oral Arg. Tr. at 5). Thus, the \$23,699.28 in deposition costs sought by Plaintiff should be disallowed.<sup>1</sup> This is particularly so for the \$871.30 in costs sought for the deposition

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<sup>1</sup> Decl. King Supp. Appl. Costs (“King Decl.”) ¶ 7 (Dkt. No. 71-1).

transcript of Vadim Voronin,<sup>2</sup> which Plaintiff did not even file in support of his motion for summary judgment. *See* Decl. Weigel Supp. Mot. SJ (Dkt. No. 55); Decl. King Further Supp. Mot. SJ (Dkt. No. 69).

**2. Plaintiff Cannot Tax the Cost of More Than an Original and One Copy of a Deposition Transcript**

Local Civil Rule 54.1 provides that only the original transcript of a deposition, plus one copy, is taxable. Local Civ. R. 54.1(c)(2). Even if it is determined that Plaintiff can recover costs for the depositions listed in his Application for Costs, he is not permitted to recover the costs of miscellaneous expenses incurred in connection with deposition transcripts, such as professional attendance fees and expenses, rough draft fees, and delivery and handling fees. Because Plaintiff does not suggest any extraordinary circumstances that would justify recovery of \$8,942.18 in such miscellaneous expenses,<sup>3</sup> this amount should be disallowed.

***Professional Attendance Fees and Expenses.*** Professional attendance or appearance fees and expenses are miscellaneous expenses and not taxable. *See In re Omeprazole Patent Litig.*, No. 00 CIV. 4541 BSJ, 2012 WL 5427849, at \*4 (S.D.N.Y. Nov. 7, 2012) (“[C]ourts in this District have determined that court reporter appearance fees ... are not taxable.”); *Farberware*, 2009 WL 5173787, at \*5–6 (disallowing appearance fees at depositions as a “miscellaneous” expense not taxable even when the cost of an original transcript and one copy is properly taxed); *Mobasher v. Bronx Cmty. College of the City Univ. of N.Y.*, 01 Civ. 8636 (WCC), 2008 U.S. Dist. LEXIS 57470, at

<sup>2</sup> King Decl., Ex. D at 13. This total excludes the amount categorized as “Realtime Services,” per Plaintiff’s representation that he is not seeking recovery of that cost. *See id.* ¶ 7 n.1.

<sup>3</sup> This constitutes \$570 in “Professional Attendance” fees; \$3,600 in “Expenses”; \$4,258.25 in “Rough Draft” costs; and \$513.93 in “Delivery and Handling” costs. *See generally* King Decl., Ex. D.

\*10–11 (S.D.N.Y. July 28, 2008) (rejecting recovery of “Appearance Fee[s]”). Plaintiff’s request for \$570 in “Professional Attendance” fees and \$3,600 in “Expenses” should thus be disallowed.<sup>4</sup>

**Rough Draft Fees.** The purchase price of a rough disk “may not be taxed,” even if the deposition transcript itself is taxable. *Farberware*, 2009 WL 5173787, at \*5–6 (denying taxation of cost of rough disks). Plaintiff’s request for \$4,258.25 for “Rough Draft” fees should thus be disallowed.<sup>5</sup>

**Delivery and Handling Fees.** Delivery and handling costs in connection with deposition transcripts are not recoverable. *Omeprazole Patent Litig.*, 2012 WL 5427849, at \*4 (rejecting recovery of “delivery fees” for deposition transcripts); *India.com, Inc. v. Dalal*, No. 02 CIV 0111 DLC, 2010 WL 2758567, at \*3 (S.D.N.Y. July 13, 2010) (same); *Mobasher*, 2008 U.S. Dist. LEXIS 57470, at \*10–11 (denying delivery fees because “shipping fees are not provided for under Local Civil Rule 54.1”). Plaintiff’s request for \$513.93 in “Delivery and Handling” fees should thus be disallowed.<sup>6</sup>

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<sup>4</sup> See King Decl. Ex. D at 2, 3, 8, 9, 10, 11 (\$95 in “Professional Attendance” fees for each of six depositions: Kamo Avagumyan, Karen Avagumyan, Andrei Pavlovich, Vitaliy Popov, Yulia Semenova, and Alexander Shcheglyayev); *id.* at 3 (\$2,400 in “Expenses” for Karen Avagumyan); *id.* at 9 (\$1,200 in “Expenses” for Vitaliy Popov).

<sup>5</sup> See King Decl. Ex. D at 2 (\$309.75 in “Rough Draft” fees for Kamo Avagumyan); *id.* at 3 (\$175 in same for Karen Avagumyan); *id.* at 4 (\$391.25 in same for Vadim Kolotnikov); *id.* at 5 (\$187.50 in same for Charles W. Laurence); *id.* at 6 (\$545 in same for Sergey Leontiev); *id.* at 7 (\$262.50 in same for Irina Monakhova); *id.* at 8 (\$260.75 in same for Andrei Pavlovich); *id.* at 9 (\$362.25 in same for Vitaliy Popov); *id.* at 10 (\$313.25 in same for Yulia Semenova); *id.* at 11 (\$222.25 in same for Alexander Shcheglyayev); *id.* at 12 (\$343.75 in same for Alexander Varshavsky); *id.* at 13 (\$185 in same for Vadim Voronin); *id.* at 14 (\$291.25 in same for Alexander Zheleznyak); *id.* at 15 (\$408.75 in same for Irina Zubiy).

<sup>6</sup> See King Decl. Ex. D at 2 (\$39.50 in “Delivery and Handling” fees for Kamo Avagumyan); *id.* at 3 (\$41.65 in same for Karen Avagumyan); *id.* at 4 (\$45.89 in same for Vadim Kolotnikov); *id.* at 5 (\$29.50 in same for Charles W. Laurence); *id.* at 6 (\$29.50 in same for Sergey Leontiev); *id.* at 7 (\$51.89 in same for Irina Monakhova); *id.* at 8 (\$39.50 in same for Andrei Pavlovich); *id.* at 9 (\$39.50 in same for Vitaliy Popov); *id.* at 10 (\$39.50 in same for Yulia Semenova); *id.* at 11 (\$39.50 in same for Alexander Shcheglyayev); *id.* at 12 (\$29.50 in same for Alexander Varshavsky); *id.* at 13 (\$29.50 in

### **B. Interpreter Fees**

Under the Rules of this Court, interpreter fees are taxable only “if the fee of the witness involved is taxable.” Local Civ. R. 54.1(c)(4). Here, Plaintiff seeks interpreter fees solely for deposition witnesses. The fee for a deposition witness, however, is taxable only “if the deposition taken was used or received in evidence at ... trial.” Local Civ. R. 54.1(c)(2). As there was no trial, on its face this Court’s Rules do not permit taxation of the interpreter fees sought by Plaintiff. Plaintiff’s request for \$8,690 for interpretation services at depositions should thus be disallowed.<sup>7</sup>

### **CONCLUSION**

For the foregoing reasons, Defendant respectfully requests that Plaintiff’s Application for Costs be denied in its entirety, or, in the alternative, denied to the extent of \$8,690 for interpretation services that are not taxable and \$23,699.28 in costs for depositions that are not taxable or, if the depositions are found to be taxable, \$8,942.18 in miscellaneous deposition expenses that are not taxable.

Dated: New York, New York  
March 27, 2017

DEBEVOISE & PLIMPTON LLP

/s/ Sean Hecker

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same for Vadim Voronin); *id.* at 14 (\$29.50 in same for Alexander Zheleznyak); *id.* at 15 (\$29.50 in same for Irina Zubiy).

<sup>7</sup> See King Decl. ¶ 8, Ex. E.

whtaft@debevoise.com

*Counsel to Defendant Alexander Varshavsky*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
SERGEY LEONTIEV,	:	
	:	
Plaintiff,	:	
	:	Case No. 1:16-cv-03595 (JSR)
- v. -	:	
	:	
ALEXANDER VARSHAVSKY,	:	
	:	
Defendant.	:	
-----	X	

**DECLARATION OF SEAN HECKER  
IN OPPOSITION TO PLAINTIFF'S APPLICATION FOR COSTS**

I, SEAN HECKER, declare under penalty of perjury as follows:

1. I am a partner at the law firm of Debevoise & Plimpton LLP and am counsel of record for Defendant Alexander Varshavsky.
2. I respectfully submit this Declaration in support of Defendant's opposition to Plaintiff's Application for Costs.
3. Attached hereto as Exhibit A is a true and correct copy of a transcript, dated March 1, 2017, of oral argument in the above-captioned matter on Plaintiff's Motion for Summary Judgment.

I swear under penalty of perjury that the foregoing is true and correct. Executed on March 24, 2017.

/s/ Sean Hecker  
Sean Hecker  
DEBEVOISE & PLIMPTON LLP



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*Counsel to Defendant Alexander Varshavsky*

# **Exhibit A**

H31VLEOA

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
-----x

3 SERGEY LEONTIEV,  
4 Plaintiff,

5 v. 16 CV 3595 (JSR)

6 ALEXANDER VARSHAVSKY,  
7 Defendant. ARGUMENT

8 -----x  
9 New York, N.Y.  
March 1, 2017  
2:52 p.m.

10 Before:

11 HON. JED S. RAKOFF,  
12 District Judge

13 APPEARANCES

14 GIBSON DUNN  
15 Attorneys for Plaintiff  
16 BY: ROBERT L. WEIGEL  
ALISON L. WOLLIN  
17 RACHEL BROOK  
NETA LEVANON

18 DEBEVOISE & PLIMPTON  
Attorneys for Defendant  
19 BY: SEAN HECKER  
WILLIAM H. TAFT  
20 COLBY A. SMITH

21

22

23

24

25

H31VLEOA

1 (Case called)

2 THE COURT: Good afternoon.

3 So we're here on the plaintiff's motion for summary  
4 judgment.

5 MR. WEIGEL: Yes, your Honor.

6 THE COURT: But I don't actually know why we're here,  
7 and I'll tell you why I say that. Keeping in mind, as of  
8 course I am required, that this has been one hotly-litigated --  
9 one might well say over-litigated -- case on the part of both  
10 the esteemed law firms present here in court.

11 Mr. Leontiev initially sought a declaration that he  
12 did not owe Mr. Varshavsky or, quote, anyone acting in concert  
13 or participation with Mr. Varshavsky in connection with loans.  
14 Mr. Leontiev later repeatedly withdrew the second part of that  
15 claim on the record, in open court, and only asked for the  
16 first declaration.

17 Mr. Varshavsky has now conceded that he cannot  
18 personally enforce the loans because he is not a named lender,  
19 a third-party beneficiary, or an assignee of the loans. He,  
20 therefore, as I read his papers, consents to the entry of the  
21 declaration that Mr. Leontiev does not owe a debt to  
22 Mr. Varshavsky in Mr. Varshavsky's personal capacity, which is  
23 all that remains of the relief sought by the plaintiff.

24 So I ask counsel, why are we here?

25 MR. WEIGEL: We are here, your Honor, because at the

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1 beginning of the lawsuit, we filed a complaint. And in that  
2 complaint, in paragraph 4, we said Mr. Leontiev owes  
3 Mr. Varshavsky nothing. In two answers, the original answer  
4 and the amended answer, that provision was denied. When we  
5 came in front of you on the motion for judgment on the  
6 pleadings, Mr. Varshavsky -- well, your Honor --

7 THE COURT: Am I right that the declaration you are  
8 presently seeking is that Mr. Leontiev does not owe a debt to  
9 Mr. Varshavsky in Mr. Varshavsky's personal capacity?

10 MR. WEIGEL: Absolutely right, your Honor.

11 THE COURT: That's the only relief that, as I read the  
12 record, you are presently seeking.

13 MR. WEIGEL: That is the relief we are seeking, your  
14 Honor.

15 THE COURT: They concede that they will give you that  
16 declaration. They do not object to that declaration.

17 MR. WEIGEL: But they did that in a very tactical way,  
18 your Honor.

19 THE COURT: I don't give a darn. I'm a simple,  
20 barefoot judge. You asked for relief, number one. They say  
21 they will give you relief, number one.

22 Why are we here?

23 MR. WEIGEL: Well, we would like -- obviously we'd  
24 like a judgment of this Court.

25 THE COURT: I will give you that declaration.

H31VLEOA

1           MR. WEIGEL: The other point, your Honor, though, is  
2     that at any point in time Mr. Varshavsky controls Avalon. He's  
3     its president. He could have caused an assignment to himself  
4     at any point in time.

5           What they did here was they let this case go through  
6     all the discovery, and then at the very last minute, they made  
7     a call, should we assign the claim to Mr. Varshavsky or not.  
8     They chose not to at that point in time. But we didn't know  
9     what that answer would be. In fact, as of this morning they  
10    could have assigned the claim to Mr. Varshavsky. So there is  
11    an issue about whether Mr. Leontiev is liable for the debts of  
12    these other entities.

13          Your Honor said there were three things that they  
14    needed to prove when we got to the summary judgment stage, when  
15    the burden of proof shifted. One was that there was a valid  
16    debt; two, that he had a right to enforce it; and three, that  
17    Mr. Leontiev was liable for that debt.

18          After spending an enormous amount of everybody's time  
19    and energy, not only my client's money and the 15 depositions,  
20    but tens of thousands of pages of documents that were produced,  
21    they've now conceded what they should have conceded a long time  
22    ago.

23          Your Honor, we'll take the judgment. I mean we're  
24    very happy that we've managed to prove what we set out to  
25    prove. But we don't think that they should be allowed to limit



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1 the Court, if the Court were to consider the other issues, and  
2 decide on the alternative ground that they have failed to  
3 establish, after all this discovery, that Mr. Leontiev is  
4 liable for the debts of these three companies: Ambika, Vennop,  
5 and FG Life.

6 If I may, your Honor, we spent a great deal of time,  
7 and having spent several hours of my life trying to read that  
8 Press case from the English court which I would commend to you  
9 if you ever have two and-a-half hours in the Dallas airport.  
10 We've gone through it and they have utterly failed to establish  
11 any of the elements to establish that the veil of Ambika should  
12 be pierced.

13 There are two theories under English law, under the  
14 Press case and under Judge Cote's decision in the Mike Tyson  
15 bankruptcy, which elaborates on the English law. There are two  
16 theories. One is that there was some sort of evasion that --

17 THE COURT: Counsel, this is not a good use of my  
18 time. I understand that you felt, given the way they presented  
19 their papers, that you should come to argue that point, but I  
20 don't see that point as any longer relevant.

21 Let me hear from your adversary.

22 Thank you.

23 MR. WEIGEL: Thank you, your Honor.

24 MR. HECKER: I agree with the Court's analysis.

25 THE COURT: But I think the point made by your

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1     adversary, that this is something -- that you could have  
2     reached this point weeks or months ago.

3             MR. HECKER: Your Honor, I agree. We tried to.

4             On July 29th, during our meet-and-confer, before a  
5     call was made to chambers to get permission to file the motion  
6     for judgment on the pleadings, I said in very plain English to  
7     Mr. Weigel's partner Marshall King, that if all they were  
8     seeking was a declaration or an order that their client didn't  
9     owe our client personally on the loans, they could have it,  
10    this case could be done.

11            He refused the offer.

12            I said, What is it you're trying to accomplish? Who  
13    are you trying to bind by getting a ruling here?

14            No response.

15            They moved forward with the motion for judgment on the  
16    pleadings, and they have been the ones that have been  
17    litigating this case. They are the plaintiffs in this case; we  
18    didn't ask for this lawsuit. The actual lenders here have  
19    brought suit in state court. The case was just assigned to  
20    Justice Barry Ostrager, I think, yesterday.

21            We are going to litigate this case. We think that's  
22    the proper forum. We agree with the Court's analysis. There  
23    is no actual controversy between the parties. I think this  
24    Court would have discretion under the Declaratory Judgment Act  
25    not to issue the requested declaration because there has never

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1       been a claim that Mr. Varshavsky, who's owed this money --

2               THE COURT: On your consent, I'm issuing it.

3               MR. HECKER: On consent, that's fine.

4               THE COURT: I don't understand, having consented to  
5       it, why you are now bothering to argue that, in effect, that I  
6       shouldn't, under the guise of saying I have discretion not to.

7               MR. HECKER: We stand on our papers.

8               THE COURT: Good.

9               MR. HECKER: We are happy to have the order on  
10      consent.

11              THE COURT: Then it's probably time to sit down.

12              So first I will issue a declaration by no later than  
13      tomorrow, but it takes effect immediately, that Mr. Leontiev  
14      does not owe a debt to Mr. Varshavsky in Mr. Varshavsky's  
15      personal capacity.

16              Second, I feel compelled, with reluctance, to say that  
17      before this case, if you had asked this Court which were the  
18      top five litigation firms in terms of not only quality of  
19      representation, but also in terms of not wasting the Court's  
20      time and not being overly litigious and not posturing, I  
21      certainly would have included in that list Gibson Dunn and  
22      Debevoise. I feel compelled hereinafter to revise that  
23      opinion.

24              Court is adjourned.

25                                   \*   \*   \*